



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TRG

Docket No: 8811-98

14 March 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 14 March 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found that you reenlisted in the Navy on 19 December 1997 for six years. At that time you had completed about two years of active service on a prior enlistment.

The record shows that you were diagnosed as being alcohol dependent and were referred for an inpatient alcohol rehabilitation program. You were admitted into the inpatient program on 10 August 1998 and remained hospitalized until 17 August 1998. On discharge from the program, you were diagnosed as being alcohol dependent with physiological dependence. The progress report prepared at the time states, in part, as follows:

... He stated that he requires at least 10 to 15 twelve ounce beers daily to feel normal.

Withdrawal, as manifested by his disclosure that he has experience tremors when he had not drank for two to three days.

... The patient disclosed that he consumes more than he intends almost every time he drinks. He further stated

that he gets into verbal and physical confrontation when he drinks.

The progress report concludes, in part, as follows:

... He further stated that he does not believe he has a alcohol problem. (He) was given the option to remain in treatment however, he did not display the motivation to work his individual treatment plan. The patient has met five of seven criteria for alcohol dependence, therefore he has been advised that it would be in his best interest to successfully complete treatment. He has decided to withdraw from treatment against medical advice. ...

The documentation to support discharge processing is not filed in your service record. However, it appears that you were processed for an administrative discharge based on your decision to withdraw from the alcohol rehabilitation program. The record shows that you were issued a general discharge on 18 September 1998 by reason of alcohol rehabilitation failure and were assigned an RE-4 reenlistment code.

In its review of your application the Board carefully considered all potentially mitigating factors, such as your period of good service. The Board noted your contentions that you should not have been treated for alcohol dependence but for depression following the death of your uncle and the subsequent death of your best friend.

In support of your contention you have submitted a psychiatric evaluation which included psychiatric testing. The psychologist concluded that you did not have an alcohol abuse problem. A review of the evaluation indicates that the report from the Navy, which documents the reasons for the diagnosis of alcohol dependence, was not considered. You told the psychologist that your problems were caused by grief and that you only used alcohol occasionally.

The Board found that these factors and contentions were not sufficient to warrant recharacterization of your discharge or a change in the reason for discharge or the reenlistment code. In reaching its decision, the Board noted that your record is incomplete and the quality of your service in the second enlistment is unknown. The Board believed that if the Navy's report of your alcohol rehabilitation failure was correct, you were properly discharged as a rehabilitation failure. If the evaluation you submitted is correct, then it appears that you were untruthful when you informed the Navy of the extent of your alcohol abuse. It is well settled in the law that an individual who perpetrates a fraud should not benefit from that fraud when

it is discovered. Given the circumstances, the Board concluded that, whichever version is correct, the reason for your discharge should not be changed.

Concerning the characterization of your service, the Board noted the absence of documentation showing your performance and conduct during your second enlistment and the possibility that you lied about your alcohol abuse. The Board concluded that in the absence of evidence to the contrary, the general discharge issued on 18 September 1998 was proper and should not be changed.

Regulations require the assignment of an RE-4 reenlistment code when an individual is discharged due to alcohol rehabilitation failure. Since you have been treated no differently than others discharged for that reason, the Board could not find an error or injustice in the assignment of the RE-4 reenlistment code.

Accordingly, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director